IN THE UNITED STATES DISTRICT COURT  FOR THE EASTERN DISTRICT OF CALIFORNIA  OUICKEN LOANS INC., a Michigan corporation, 2:03-cv-256-GEB-JFM Plaintiff, 3  V. AMENDED ORDER  PRESTON DUFAUCHARD, in his capacity as Commissioner of the California Department of Corporations, 3  Defendant. 3  This order amends and supercedes the order filed in this action on January 10, 2007. 1  On May 22, 2006, the Ninth Circuit issued an opinion vacating in part, affirming in part, and remanding, the judgment that was entered in this action on May 13, 2004. See Ouicken Loans, Inc. V. Wood, 449 F.3d 944 (9th Cir. 2006).	1	
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## Case 2:03-cv-00256-GEB-JFM Document 95 Filed 01/25/07 Page 2 of 2

As to Count I of Plaintiff's First Amended Complaint, the Circuit found that California's per diem loan interest statutes are not preempted by the Depository Institutions Deregulation and Monetary Control Act (DIDMCA), and therefore vacated the judgment entered for Plaintiff by the Clerk of the Court on May 13, 2004. <u>Id.</u> at 947, 948, 954. In accordance with the Circuit's opinion, Count I is dismissed. The Clerk of the Court shall enter judgment for Defendant on Count I.

As to Count II of the First Amended Complaint, the Circuit affirmed this Court's finding that California's per diem loan interest statutes "are not preempted by the [Alternative Mortgage Transaction] Parity Act." <u>Id.</u> at 947, 953, 954. Judgment was entered for Defendant on Count II on May 13, 2004.

As to Count III of the First Amended Complaint, the Circuit affirmed this Court's "dismissal of Plaintiff's as-applied federal takings claim for ripeness and [held] that any facial claim was waived." Id. at 947, 953, 954. The dismissal of Count III is without prejudice. Since judgment has not yet been entered for Defendant on Count III, the Clerk of the Court shall enter judgment for Defendant on Count III.

The Clerk of the Court is further directed to close this case.

IT IS SO ORDERED.

Dated: January 24, 2007

GARLAND E. BURREIL, JR.
United States District Judge